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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,824	04/25/2001	Tsutomu Nakamura	Q62666	6099

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SUGHRUE, MION, ZINN, MACPEAK & SEAS
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037

EXAMINER

MAKI, STEVEN D

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 11/20/2002

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/840,824	Applicant(s) NAKAMURA, TSUTOMU	
	Examiner Steven D. Maki	Art Unit 1733	

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> . | 6) <input type="checkbox"/> Other: |

Art Unit: 1733

- 1) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 2) Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claims 1-3, the scope and meaning of "the tire is mounted as a ... tire" is unclear. On what is the tire mounted? Do claims 1-3 require the tire(s) to be mounted on a vehicle?

In claim 1, the description of "so as to finally contact a portion of the cord in the belt member facing the opening space with a ground in a forward rotating direction of the tire" (which appears to read on the cord arrangement of figure 2 *and* figure 3 of applicant's disclosure) is ambiguous.

In claim 2, the description of "so as to firstly contact a portion of the cord in the belt member facing the opening space with a ground in a forward rotating direction of the tire" (which appears to read on the cord arrangement of figure 2 *and* figure 3 of applicant's disclosure) is ambiguous.

In claim 3, the description of "so as to finally contact a portion of the cord in the belt member facing the opening space with a ground in a forward rotating direction of the tire" (which appears to read on the cord arrangement of figure 2 *and* figure 3 of applicant's disclosure) is ambiguous.

In claim 3, the description of "so as to firstly contact a portion of the cord in the belt member facing the opening space with a ground in a forward rotating direction of

Art Unit: 1733

the tire" (which appears to read on the cord arrangement of figure 2 *and* figure 3 of applicant's disclosure) is ambiguous.

3) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5) Claims 1-6 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Armellin (US 6244315).

Armellin discloses a motorcycle having a pair of tires. A front tire is mounted on the motorcycle and a rear tire is mounted on the motorcycle. Hence, Armellin discloses a method of mounting a front tire on a motorcycle and mounting a rear tire on the motorcycle. Each tire is a pneumatic radial tire comprising spirally wound cord 7 and a reinforcing layer 9. The reinforcing layer comprises two strips 9a, 9b wherein each strip contains inclined cords. The cords of one strip are inclined in the opposite direction of the cords of the other strip. The angles of the cords with respect to the equatorial plane are at 22-45 degrees. The two strips may be interrupted so as to define a space "a" of

10-30% of the axial extension of the belt. The interrupted strips 9a, 9b define four narrow cord containing strips (four "cross belt members"). See figure 4. The cords in the four cross belt members may be textile or metal. See col. 9 lines 40-60.

As to claims 1-3, the claimed mounting method is anticipated by the mounting method of Armellin. Each tire of claims 1-3 reads on and fails to exclude four cross belt members. As to the front tire, the cross belt members for the front tire of claims 1 and 3 read on the lower left narrow cord containing strip and the upper right cord containing strip of the figure 4 tire of Armellin. As to the rear tire, the cross belt members for the rear tire of claims 2 and 3 read on the upper left narrow cord containing strip and the lower right cord containing strip of the figure 4 tire of Armellin.

As to claims 4 and 5, note Armellin's teaching to use textile or metal cords for the cord reinforcing layer 9. In any event: As to claim 4, it would have been obvious to one of ordinary skill in the art to use steel cords having an initial tensile strength of no less than 50CN/cord as the cords for the reinforcing layer 9 since (a) Armellin suggests using metal cords for the cords of the reinforcing layer 9 and (b) steel cords having an initial tensile strength of no less than 50CN/cord for a reinforcement between the tread and carcass of a tire is taken as well known / conventional per se; it being noted that applicant has asserted no novelty for these cords per se. As to claim 5, it would have been obvious to one of ordinary skill in the art to use organic cords having an initial tensile strength of no less than 50CN/cord as the cords for the reinforcing layer 9 since (a) Armellin suggests using textile cords for the cords of the reinforcing layer 9 and (b) organic cords (e.g. aramid cords) having an initial tensile strength of no less than

Art Unit: 1733

50CN/cord for a reinforcement between the tread and carcass of a tire is taken as well known / conventional per se; it being noted that applicant has asserted no novelty for these cords per se.

As to claim 6, note the angle of the cords in the interrupted reinforcing layer of figure 4 and the opening space "a" figure 4. In any event: The limitation of the cord angle being 80-20 degrees would have been obvious in view of Armellin's suggestion to use a cord angle of 22-45 degrees. The limitation of the total width of the pair of cross belt members including the opening space being 150-70% of a tread width and a width of the opening space being 1-50 mm would have been obvious in view of Armellin's teaching to interrupt the two strips of the motorcycle tire so as to define a space "a" of 10-30% of the axial extension of the belt.

Remarks

- 6) The remaining references are of interest.
- 7) No claim is allowed.
- 8) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is 703-308-2068. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball can be reached on (703) 308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.


Application/Control Number: 09/840,824

Page 6

Art Unit: 1733

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Steven D. Maki
November 18, 2002


STEVEN D. MAKI 11-18-02
PRIMARY EXAMINER
~~GROUP 1300~~
AU 1733